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11 UNITED STATES DISTRICT COURT
12 DISTRICT OF NEVADA
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15 JANET SOBEL, DANIEL DUGAN, PhD., and
16 LYDIA LEE, individually and on behalf of all
others similarly situated,

17 Plaintiffs,

Civil Action No.: 3:06-CV-00545-LRH-
RAM

18 v.

19 THE HERTZ CORPORATION, a Delaware
20 corporation; and, ENTERPRISE RENT-A-CAR
COMPANY, a Missouri corporation,

21 Defendants.

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24 ORDER RE CERTIFICATION
TO THE NINTH CIRCUIT PURSUANT TO 28 U.S.C. § 1292(b)
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1 WHEREAS, on September 24, 2007 defendant The Hertz Corporation ("Hertz")
2 filed a Motion for Certification pursuant to Nev. R. App. P. 5 or, In the Alternative,
3 Certification pursuant to 28 U.S.C. § 1292(b) (the "Motion"); and

4 WHEREAS, plaintiffs filed an opposition to Hertz's Motion on October 13, 2007,
5 Hertz filed a reply on November 26, 2007, and the Motion is pending; and

6 WHEREAS, pursuant to Fed. R. Civ. P. 26 and Local Rule 26-1, the parties have
7 discussed how best to proceed in this action, given the Court's September 13, 2007 Order
8 denying Hertz's motion to dismiss, and the pending Motion.

9 NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, subject to
10 the Court's approval, that:

11 (1) The September 13, 2007 Order and the Court's ruling in that Order regarding the
12 interpretation of Nevada Revised Statutes § 482.31575, in light of the overall statutory
13 scheme, and specifically whether that statute allows rental car companies to separately
14 charge rental car customers airport concession recovery fees, shall be certified for
15 immediate interlocutory appeal to the Ninth Circuit, pursuant to 28 U.S.C. § 1292(b), and
16 plaintiffs withdraw their objections to such Ninth Circuit certification;

17 (2) If this Court approves this Stipulation, the parties will cooperate in seeking the
18 Ninth Circuit's agreement to hear the interlocutory appeal;

19 (3) If this Court approves this Stipulation then: (a) Hertz withdraws that portion of
20 its Motion seeking certification to the Nevada State Supreme Court and, further, will not
21 suggest or otherwise request that the Ninth Circuit certify the question to the Nevada State
22 Supreme Court, and (b) in the event the Ninth Circuit certifies the matter to the Nevada
23 State Supreme Court on its own motion, plaintiffs will take no action to reverse that
24 certification;

25 (4) All proceedings in this action are stayed pending the Court's decision as to
26 whether to approve this Stipulation;

27 (5) If this Court approves this Stipulation and the Ninth Circuit agrees to hear the
28 immediate interlocutory appeal, all proceedings in this Court shall be stayed pending

1 resolution of the interlocutory appeal.

2 Dated this 28th day of November, 2007.

3 ROBERTSON & BENEVENTO
4 LAW OFFICES OF DAVID B. ZLOTNICK
BERGER & MONTAGUE, P.C.

5 By


G. David Robertson, No. 1001

Robertson & Benevento
50 W. Liberty Street, Suite 600
Reno, Nevada 89501

9 Attorneys for Plaintiffs

10 MORRIS PICKERING & PETERSON
11 HELLER EHRLMAN LLP

12 By


William E. Peterson, No. 1528
Morris Pickering & Peterson
6100 Neil Road, Suite 555
Reno, Nevada 89511

15 Attorneys for Defendant
16 The Hertz Corporation

17 IT IS SO ORDERED.



20 LARRY R. HICKS
21 UNITED STATES DISTRICT JUDGE

22 DATED: December 5, 2007.